

178.3

ASSIGNMENT OF STUDENTS

VENTURA UNIFIED SCHOOL DISTRICT

AUGUST 1973

Joint Legislative Audit Committee

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November 20, 1973

Assemblyman Floyd L. Wakefield
Room 4160, State Capitol
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Dear Floyd:

Transmitted herewith is a report on the Ventura Unified School District prepared in response to your request. The essence of the report is as follows:

- An ethnic survey of the district in October 1971 showed that three of the district's 21 elementary schools had minority enrollments that differed by more than 15 percentage points from that for all schools of the district. These three schools were considered imbalanced according to the California Administrative Code, Title 5, Sections 14020 and 14021.
- On June 12, 1972, the district's Board of Education adopted a desegregation plan to ethnically balance these three schools. The plan involved changing attendance boundaries and pairing elementary schools. The plan called for the reassignment and busing of 880, or 4.7 percent, of the district's 18,637 students.
- The district followed the desegregation plan during the 1972-73 school year. The district estimates the total cost in implementing the plan for the year at \$56,900. Transportation costs were estimated at \$18,000.

Assemblyman Floyd L. Wakefield
November 20, 1973
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- The district intends to continue following the desegregation plan for the 1973-74 school year. The district estimates the total costs in following the plan for 1973-74 at \$31,900.

With my warm best wishes,

Sincerely,



VINCENT THOMAS, Chairman
Joint Legislative Audit Committee

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INTRODUCTION

We have reviewed the records of Ventura Unified School District to determine if students are assigned to attend particular schools because of race or ethnic origin.

Since the mid 1960s, the California State Board of Education has urged school district governing boards to move towards the elimination of racial and ethnic segregation in schools. The United States Constitution, as interpreted by both federal and state courts since 1954, requires changes to achieve racial and ethnic balance in the schools.

In 1971, Sections 5002 and 5003 were approved by the Legislature and added to the Education Code, effective March 4, 1972. Section 5002 read in part:

"It is the declared policy of the Legislature that persons or agencies responsible for the establishment of school attendance centers or the assignment of pupils thereto shall prevent and eliminate racial and ethnic imbalance in pupil enrollment. The prevention and elimination of such imbalance shall be given high priority in all decisions relating to school sites, school attendance areas, and school attendance practices."

Sections 5002 and 5003 of the Education Code were almost identical to the State Board of Education rules and regulations contained in pre-existing Sections 14020 and 14021, Title 5, of the California Administrative Code.

Section 5003 of the Education Code placed the responsibility for carrying out the intent of the legislation with the State Board of Education. The State Board of Education had not adopted rules and regulations for implementing Sections 5002 and 5003 prior to the passage of Proposition 21.

The Legislative Counsel has provided us with opinion #14570, dated July 5, 1973, stating that:

"A school district was not required by Section 5002 of the Education Code to actually engage in any activity to eliminate racial imbalances in the schools under its jurisdiction during the time that the section was operative."

The full text of the opinion is attached as Appendix A.

In the statewide general election November 1972, the voters approved Proposition 21 which added to the Education Code:

"Sec. 1009.6. No public school student shall because of his race, creed, or color, be assigned to or be required to attend a particular school."

Proposition 21 also repealed Sections 5002 and 5003 of the Education Code, and Sections 14020 and 14021, Title 5, of the California Administrative Code.

The question presently before the courts is whether Education Code Section 1009.6 is constitutional or whether it violates the 14th Amendment of the United States Constitution. In February 1973 a superior court in Sacramento ruled Section 1009.6 to be constitutional. In May 1973 a superior court in San Bernardino ruled Section 1009.6 to be unconstitutional.

SUMMARY

Page

DESEGREGATION PLAN

- An ethnic survey of the district in October 1971 showed that three of the district's 21 elementary schools had minority enrollments that differed by more than 15 percentage points from that for all schools of the district. These three schools were considered imbalanced according to the California Administrative Code, Title 5, Section 14020 and 14021. 5
- On June 12, 1972, the district's board of education adopted a desegregation plan to ethnically balance these three schools. The plan involved changing attendance boundaries and pairing elementary schools. The plan called for the reassignment and busing of 880, or 4.7 percent of the district's 18,637 students. 5

1972-73 SCHOOL YEAR

- The district followed the desegregation plan during the 1972-73 school year. The district estimates the total cost in implementing the plan for the year at \$56,900. Transportation costs were estimated at \$18,000. 13

1973-74 SCHOOL YEAR

- The district intends to continue to follow the desegregation plan for the 1973-74 school year.

The district estimates the total costs in following the plan for 1973-74 at \$31,900. The \$25,000 cost reduction is accounted for as follows:

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-- Elimination of community relations director position	\$15,000
-- One-time refurbishing and alterations charges 1972-73	<u>10,000</u>
	<u>\$25,000</u>

DESEGREGATION PLAN

Following years of prompting by the State Department of Education, the Ventura Unified School District Board of Education on June 12, 1972 unanimously adopted a plan to desegregate its elementary schools. The plan bears the title "Suggested Plans for Desegregation of the Racially and Ethnically Imbalanced Schools of the Ventura Unified School District". It is sometimes referred to as the "Combined Boundary Change Pairing Plan".

The district's considerations in developing the desegregation plan were stated as follows:

- "1. Comply with Policy Statement of Board of Education -- Equality of Educational Opportunity.
2. Comply with Education Code Sections 5002 and 5003.
3. Educational Advantages and/or Disadvantages of Desegregation Plan.
4. Number of Students Involved in Plan.
5. Cost of Implementing a Desegregation Plan."

The plan defined racial and ethnic imbalance as follows:

"Imbalance is indicated in a school if the enrollment of pupils of any racial or ethnic group differs by more than 15 percentage points from that for all schools of the district."

(California Administrative Code, Title 5, Sections 14020 and 14021.)

A survey of the district in October 1971 showed that district-wide 16.99 percent of the students were of minority backgrounds. The 16.99 percent minority consisted of 14.94 percent Spanish surname, 1.01 percent black and the remaining 1.04 percent oriental, American Indian, Filipino and other minorities.

The ethnic balance of individual schools was measured by total percentage of all ethnic minorities attending the school. Any school with a minority enrollment from two percent to 32 percent (17 percent plus or minus 15 percent) was considered ethnically balanced.

Three of the district's 21 elementary schools were considered imbalanced using the above criteria. They were:

- Avenue -- 40.55 percent minority
- Saticoy -- 40.44 percent minority
- Sheridan Way -- 53.88 percent minority.

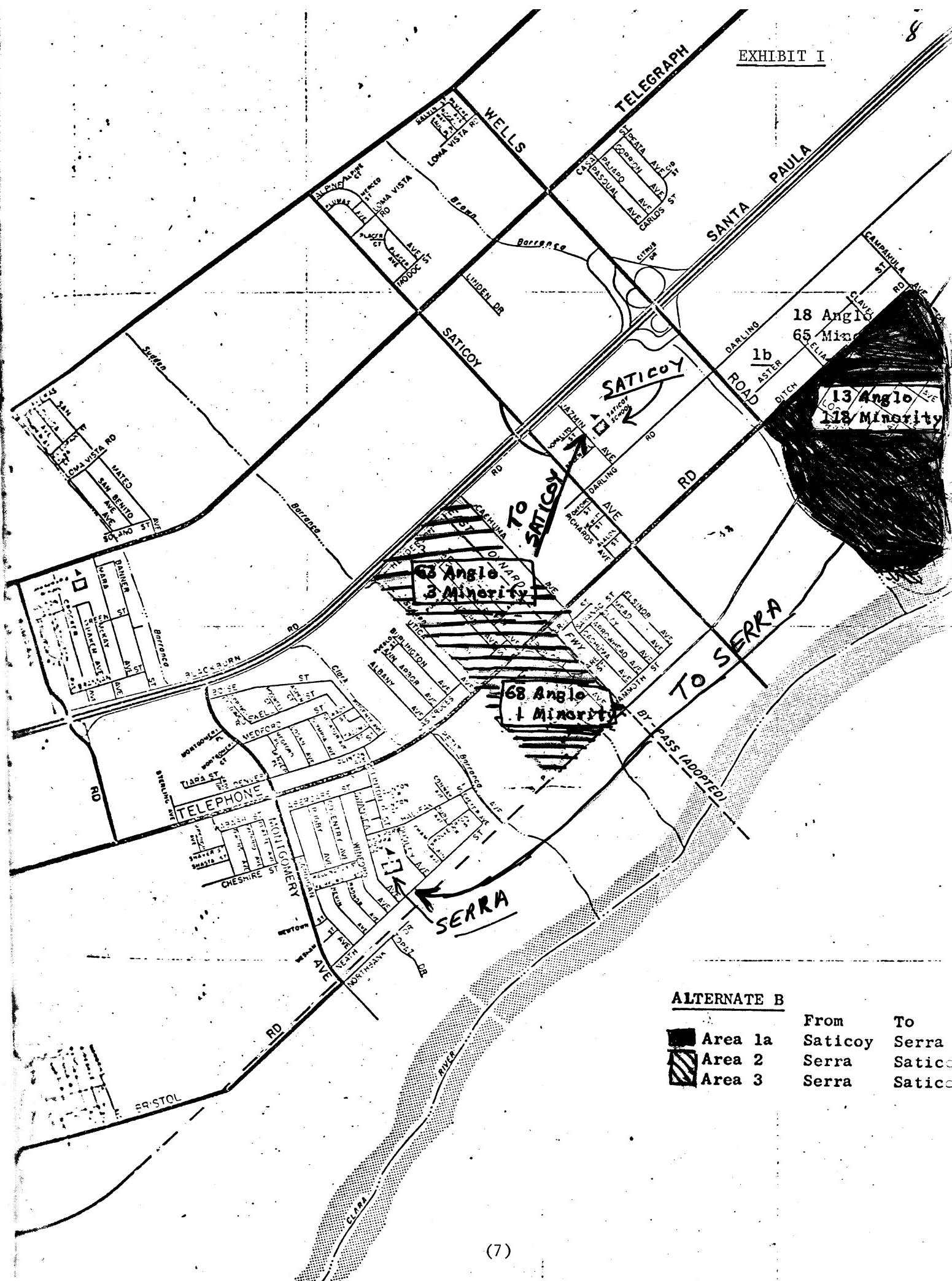
Three other elementary schools were described as approaching imbalance. They were:

- E. P. Foster -- 28.91 percent minority
- Lincoln -- 31.22 percent minority
- Washington -- 24.48 percent minority.

The district's desegregation plan involved the reassignment of students from nine schools to balance the three imbalanced schools. The plan was divided into three sub-plans to balance each school.

SATICOY-SERRA DESEGREGATION PLAN (Exhibit I)

The Saticoy and Serra schools are located in the eastern and southeastern part of the district, respectively. One hundred thirty one (131) students were transferred from Saticoy to Serra, 118 minority and 13 other. One hundred thirty five (135) students were transferred from Serra to Saticoy, 131 other and four minority.



AVENUE, ARNAZ, FOSTER, MILL
SCHOOLS DESEGREGATION PLAN (Exhibit II)

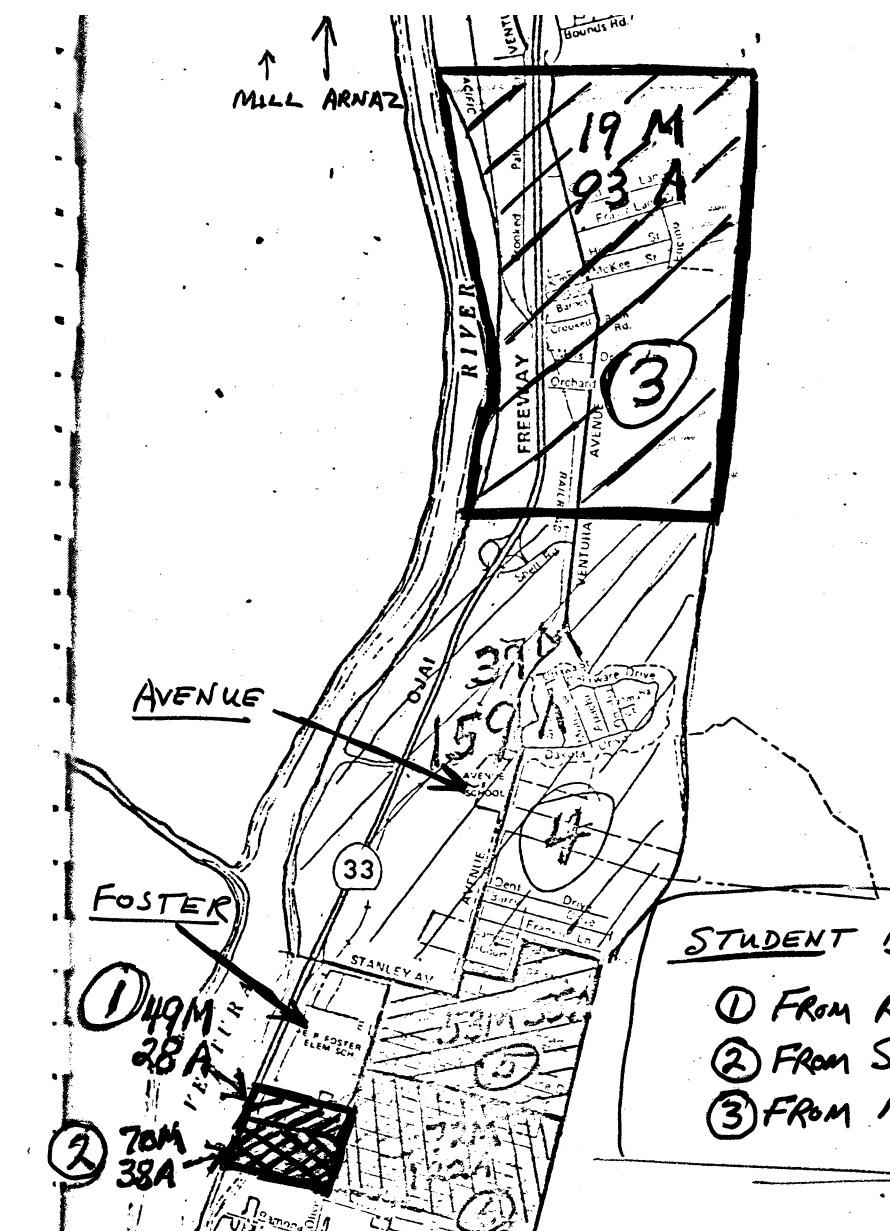
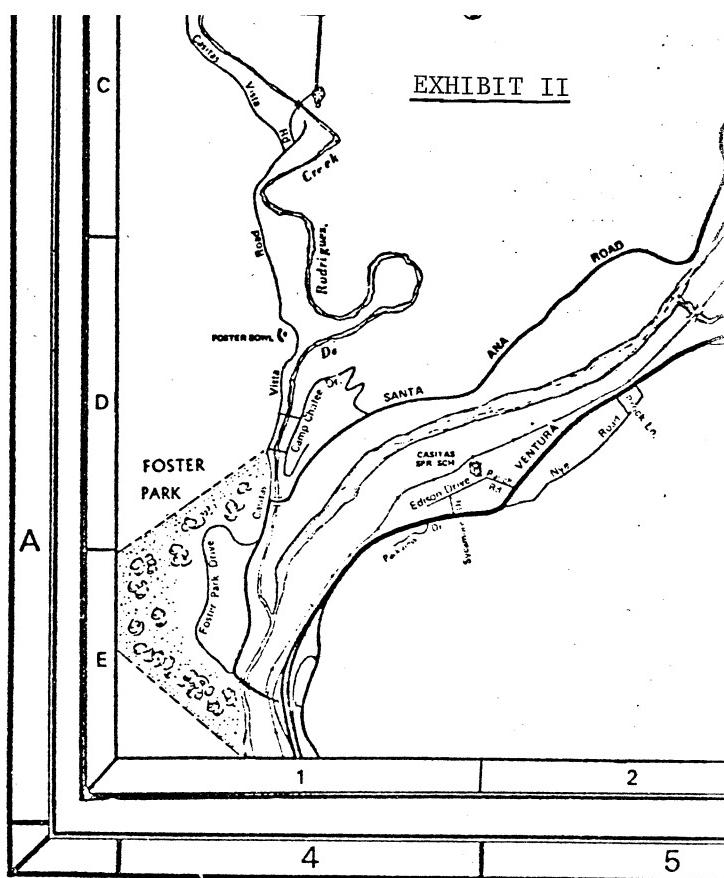
These schools are located on a strip of land extending up a valley at the northwestern-most part of the district. Modification of the schools' boundaries was used to adjust ethnic balance. The Avenue, Arnaz, Foster and Mill schools desegregation plan required the reassignment of 297 students to ethnically balance Avenue and improve the "approaching imbalance" at Foster.

The Avenue, Arnaz, Foster and Mill schools desegregation plan involved three geographic areas. One area consists of two blocks in the southwestern corner of the Avenue-Foster attendance area. This area had 77 students; 49 minority, 28 other. These 77 students were reassigned to the Mill school approximately five miles to the north.

A second area consists of the adjacent two blocks in the northwest corner of the Sheridan Way area. Sheridan Way, however, was not mentioned in this plan. The second area had 108 students; 70 minority and 38 other. These 108 students were reassigned to the Arnaz school approximately seven miles to the north.

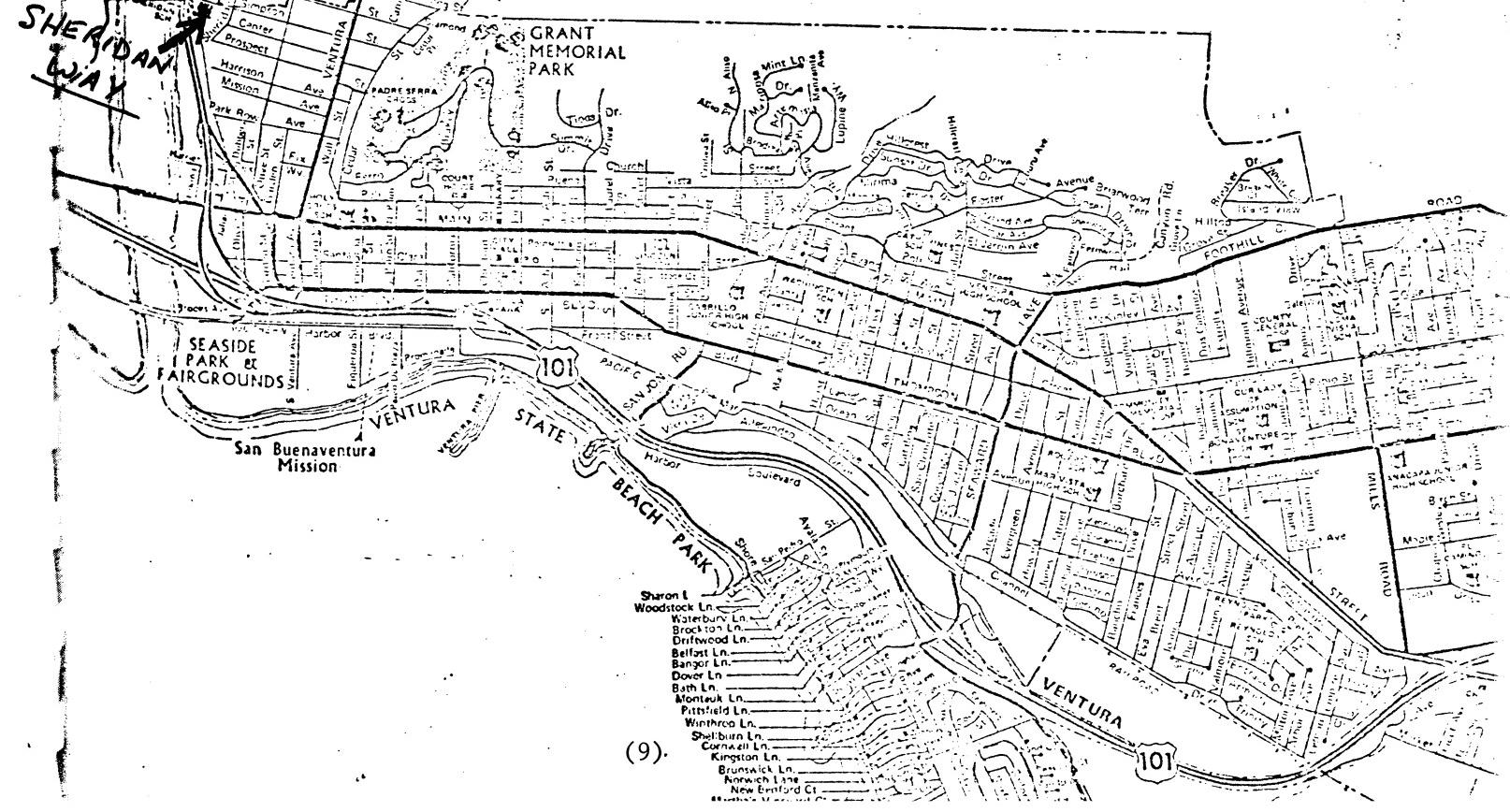
A third area of approximately one mile north and south and three-quarters of a mile east and west is located in the southern portion of the Mill attendance area. It contained 112 students; 19 minority, 93 other. These 112 students were reassigned to the Avenue and Foster schools.

EXHIBIT II



STUDENT RE-ASSIGNMENTS

- ① FROM AVENUE & FOSTER TO ARNAZ
- ② FROM SHERIDAN WAY TO MILL
- ③ FROM MILL TO AVENUE VENTURA AND FOSTER AND VICINITY



(9).

SHERIDAN WAY, PIERPONT, WILL ROGERS
DESEGREGATION PLAN (Exhibit III)

Sheridan Way is the western-most school in the district. The Sheridan Way attendance area encompasses the residential area just west of the downtown district and runs from the beach north up the valley leading to Ojai.

Pierpont is the southwestern-most school in the district. The Pierpont attendance area encompasses the area southwest of the Ventura freeway along the beach.

The Will Rogers attendance area is adjacent to Pierpont's. It encompasses the area north of the Ventura freeway to Main Street.

Pierpont and Will Rogers have been related from an attendance standpoint for many years. Because of the small size of Pierpont, it has been necessary to use Will Rogers as an overflow school for Pierpont.

Two school attendance areas (Lincoln and Washington) are between the Sheridan Way area and the Pierpont-Will Rogers areas.

The Sheridan Way, Pierpont, Will Ringers desegregation plan to ethnically balance Sheridan Way was basically a pairing plan between Sheridan Way and Pierpont.

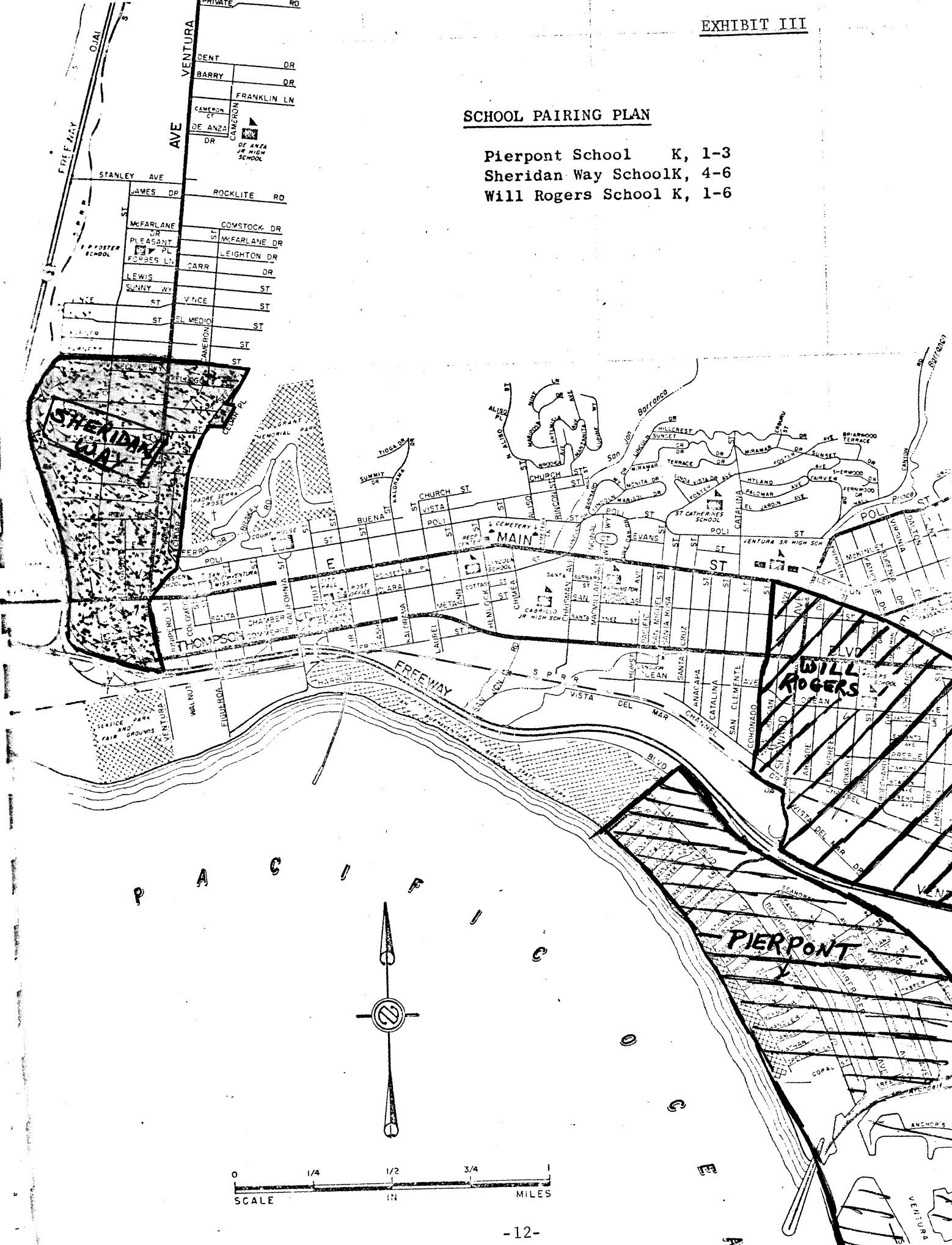
Prior to the adoption of the desegregation plan, Pierpont was operating as a kindergarten through third grade school (K-3). Fourth through sixth graders residing in the Pierpont attendance area were assigned to Will Rogers.

The desegregation plan required the assignment of fourth, fifth and sixth grade students residing in the Sheridan Way and Pierpont attendance areas to the Sheridan Way school. Kindergarten students remained in their home attendance areas. All first, second and third grade students residing in the Sheridan Way-Pierpont attendance areas attended Pierpont and Will Rogers schools. To accomplish the division of first, second and third grade students residing in the Sheridan Way-Pierpont attendance areas, each attendance area was divided with part of the students from each area attending the Pierpont school and part of the students from each area attending the Will Rogers school.

The district estimates that the Sheridan Way, Pierpont, Will Rogers desegregation plan will result in the reassignment and transportation of 317 students.

SCHOOL PAIRING PLAN

Pierpont School K, 1-3
Sheridan Way School K, 4-6
Will Rogers School K, 1-6



COSTS AND RESULTS 1972-73 SCHOOL YEAR

The district followed the desegregation plan for the first time during the 1972-73 school year. It estimates that the cost of the plan for 1972-73 was \$56,900. Transportation costs for the 880 reassigned students are estimated at \$18,000 for the year.

The results of the implementation of the plan on the ethnic balance of the schools involved were as follows:

	Minority Percentages	
	<u>October 1971</u>	<u>October 1972</u>
Saticoy	40.44%	26.12%
Serra	8.41	19.94
Avenue	40.55	32.57
Arnaz	3.77	17.57
Foster	28.91	27.99
Mill	10.31	25.21
Sheridan Way	53.88	32.27
Pierpont	5.15	15.79
Will Rogers	16.03%	30.60%

Minority enrollment in October 1972 was 17.17 percent of total enrollment in all schools. Avenue had the highest percentage enrollment at 32.57 percent or 15.40 percent above the district-wide average.

DISTRICT'S PLANS FOR 1973-74 SCHOOL YEAR

The district intends to continue operating under its desegregation plan for 1973-74. The only change in student assignments will result from the closing of the Lincoln Elementary School in downtown Ventura.

Lincoln is being closed for economic reasons. The district's enrollments are declining. Lincoln is a small school of inefficient size. Enrollment in October 1972 was 179. Lincoln is located only a few blocks from Washington Elementary School.

The Lincoln area students will be assigned to Washington. The western portion of the Washington area will be divided between Loma Vista and Will Rogers.

The district estimates the costs of following the desegregation plan for the 1973-74 school year will be \$31,900. This is a decrease of \$25,000 from the 1972-73 school year. The decrease in costs will result from the following: A community relations director position costing \$15,000 per year has been eliminated. Refurbishing and alteration costs of \$10,000 incurred in 1972-73 to transform Sheridan Way from a K-6 to a K, 4-6 were one-time costs.


Walter J. Quinn
Chief Deputy Auditor General

September 18, 1973

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GEORGE H. MURPHY

Sacramento, California
July 5, 1973

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Honorable Vincent Thomas
Assembly Chamber

School - Racial and Ethnic
Imbalances - #14570

Dear Mr. Thomas:

QUESTION

You have asked if a school district was required by Section 5002 of the Education Code to actually engage in any activity to eliminate racial imbalances in the schools under its jurisdiction during the time that the section was operative.

OPINION

A school district was not required by Section 5002 of the Education Code to actually engage in any activity to eliminate racial imbalances in the schools under its jurisdiction during the time that the section was operative.

ANALYSIS

At the outset, we point out that the Supreme Court of California has held that the governing board of a school district is required to take affirmative steps, insofar as reasonably possible, to alleviate racial segregation in the schools under its jurisdiction, regardless of whether the

segregation is de facto segregation or de jure segregation (Jackson v. Pasadena City School Dist. (1963), 59 Cal. 2d 876, 881-882; see San Francisco Unified School Dist. v. Johnson, 3 Cal. 3d 937, 957-959; Serrano v. Priest (1971), 5 Cal. 3d 584, 604). The question here presented relates only to the provisions of Sections 5002 and 5003 of the Education Code.*

Sections 5002 and 5003 were added by Chapter 1765 of the Statutes of 1971 and became operative on March 4, 1972. The sections were repealed by an initiative measure approved by the voters on November 6, 1972. The question is whether or not Section 5002 required a school district to undertake any activity during the time between the two dates. We do not think that it did, since Section 5002 merely declared the policy of the Legislature with respect to the prevention and elimination of racial and ethnic imbalances. Section 5002 provided as follows:

"5002. It is the declared policy of the Legislature that persons or agencies responsible for the establishment of school attendance centers or the assignment of pupils thereto shall prevent and eliminate racial and ethnic imbalance in pupil enrollment. The prevention and elimination of such imbalance shall be given high priority in all decisions relating to school sites, school attendance areas, and school attendance practices."

Section 5003 provided:

"5003. (a) In carrying out the policy of Section 5002, consideration shall be given to the following factors:

"(1) A comparison of the numbers and percentages of pupils of each racial and ethnic group in the district with their numbers and percentages in each school and each grade.

"(2) A comparison of the numbers and percentages of pupils of each racial and ethnic group in certain schools with those in other schools in adjacent areas of the district.

* All references to code sections are to sections of the Education Code unless otherwise noted.

"(3) Trends and rates of population change among racial and ethnic groups within the total district, in each school, and in each grade.

"(4) The effects on the racial and ethnic composition of each school and each grade of alternate plans for selecting or enlarging school sites, or for establishing or altering school attendance areas and school attendance practices.

"(b) The governing board of each school district shall periodically, at such time and in such form as the Department of Education shall prescribe, submit statistics sufficient to enable a determination to be made of the numbers and percentages of the various racial and ethnic groups in every public school under the jurisdiction of each such governing board.

"(c) For purposes of Section 5002 and this section, a racial or ethnic imbalance is indicated in a school if the percentage of pupils of one or more racial or ethnic groups differs significantly from the districtwide percentage.

"(d) A district shall study and consider plans which would result in alternative pupil distributions which would remedy such an imbalance upon a finding by the Department of Education that the percentage of pupils of one or more racial or ethnic groups in a school differs significantly from the districtwide percentage. A district undertaking such a study may consider among feasibility factors the following:

"(1) Traditional factors used in site selection, boundary determination, and school organization by grade level.

"(2) The factors mentioned in subdivision (a) of this section.

"(3) The high priority established in Section 5002.

"(4) The effect of such alternative plans on the educational programs in that district.

"In considering such alternative plans the district shall analyze the total educational impact of such plans on the pupils of the district. Reports of such a district study and resulting plans of action, with schedules for implementation, shall be submitted to the Department of Education, for its acceptance or rejection, at such time and in such form as the department shall prescribe. The department shall determine the adequacy of alternative district plans and implementation schedules and shall report its findings as to the adequacy of alternative district plans and implementation schedules to the State Board of Education. A summary report of the findings of the department pursuant to this section shall be submitted to the Legislature each year.

"(e) The State Board of Education shall adopt rules and regulations to carry out the intent of Section 5002 and this section."

Since Section 5002 was limited to a declaration of legislative policy, it did not impose a requirement upon school districts to undertake any particular activity to eliminate racial imbalances.

As to Section 5003, such requirements could have been imposed by regulations of the State Board of Education adopted under subdivision (e), but none were ever adopted. While Section 5003 required school districts to submit certain data and study and consider certain plans, it did not require school districts to undertake any activity to eliminate racial or ethnic imbalances in the schools under their jurisdiction.

Very truly yours,

George H. Murphy
Legislative Counsel

Robert D. Gronke
By
Robert D. Gronke
Deputy Legislative Counsel

RDG:sk